

OREGON STATE BAR

Board of Governors Agenda

Meeting Date: April 12, 2019
From: Amber Hollister, General Counsel
Re: CSF Claim No. 2018-66 Deveny (Elmore)

Action Requested

Consider Client Security Fund Committee's recommendation that the board grant claimant Curtis Elmore's claim of \$17,405.53 in the matter of CSF Claim No. 2018-66 Deveny (Elmore).

Discussion

Curtis Elmore hired Lori Deveny in June 2017 to recover damages for injuries sustained in an August 2016 auto accident. He agreed to a contingent fee agreement, in which Ms. Deveny was to receive one-third of the settlement. He never received a copy of the written fee agreement from Ms. Deveny.

Ms. Deveny contacted the insurance company Country Financial to negotiate settlement and obtained a \$20,000 settlement offer. Ms. Deveny communicated the offer to Mr. Elmore and told him the settlement would also include payment of \$4,073.53 in outstanding medical bills. The Committee determined that Ms. Deveny used the promise of payment of the medical bills to induce Mr. Elmore to accept the settlement offer, even though she did not plan to pay him his portion of settlement proceeds or settle the outstanding medical debts.

Mr. Elmore signed a settlement agreement on June 10; at the time, Ms. Deveny indicated that she would reach out to him when she received the funds from Country. She never did so.

Records show that Ms. Deveny received a settlement check on June 4, 2018 and deposited it on June 11, 2018. She never paid any settlement funds to Mr. Elmore. After June 14, 2018, Ms. Deveny refused to return claimants phone calls, texts or other communications.

The investigator determined that the legal services provided by Ms. Deveny were *de minimis*, and that she did not seek to obtain payment of the outstanding medical bills, even though she told Mr. Elmore she would do so.

Ms. Deveny resigned Form B, effective July 26, 2018, while numerous disciplinary cases were pending. Mr. Elmore reports he is working with the Portland Police Department regarding Ms. Deveny's alleged theft.

At its March 2018 meeting, the Client Security Fund Committee reviewed Mr. Elmore's claim and unanimously voted to recommend that the Board reimburse him for \$17,405.53 of his loss. Mr. Elmore's claim would not ordinarily be eligible for reimbursement at this time, pursuant CSF Rule 2.1.6, because Ms. Deveny has not been found guilty of a crime and Mr. Elmore has not obtained a civil judgment against her. The Committee, however, voted to waive the requirement of CSF Rule 2.1.6 based on extreme hardship under CSF Rule 2.6, based upon his circumstances and the available evidence.

The Committee calculated the amount of the loss as the 2/3 of the settlement for \$20,000 (\$13,332), plus \$4,073.53 for the outstanding medical bills that Mr. Elmore was told would be paid as part of the settlement, for a total of \$17,415.53.

Staff recommends that the board approve the claim, consistent with the CSF Committee's recommendation.